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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,978	04/14/2004	Jerrold Zachary Pollock-Kueny	P1580	7518

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LaRiviere, Grubman & Payne, LLP
P.O. Box 3140
Monterey, CA 93942

EXAMINER

BONK, TERESA

ART UNIT	PAPER NUMBER
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3725

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/28/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/824,978

Applicant(s)

POLLOCK-KUENY, JERROD
ZACHARY

Examiner

Teresa M. Bonk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 7-8, and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kientz et al. (US Patent Des. 426,121). Kientz et al. discloses a tool for twisting rebar wires having a receiver including a round base and a hooked tip and a shaft member having an end for receiving the chuck of a machine, see Figure 1.

3. Claims 1-4, 7, 10-13, and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayakawa (US Patent 5,339,869). Hayakawa discloses stranded wire (cable) binder having a hexagonally shaped shaft member (Figure 10) and a receiver including a hook (13). The particular material of the binding member is not given patentable weight. A standard drill having multiple user torsional settings provides the rotational force (torque limiter 31, clutch 32, and Figure 1). With regards to claims 17-19, the apparatus is capable of performing the claimed method; also see Figures 14 and 15.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kientz et al. Kientz et al. discloses the invention substantially as claimed except for the particular dimensions of the receiver. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the particular claimed dimensions of the receiver since it has been held that discovering an optimum or workable ranges involves only routine skill in the art.

6. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kientz et al. in view of Fenlason (US Patent 1,181,297). Kientz et al. discloses the invention substantially as claimed except for a hollow sleeve through which the shaft member extends. Fenlason disclose a wire twisting tool having a shaft 1 through sleeve 9, see Figures 1 and 2. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Fenlason's sleeve with Kientz et al.'s invention in order to greatly facilitate the manipulation of the tool by the operator, Column 2, lines 33-37.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and further shows the state of the art: US Patents 4,798,231 and 3,970,117.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa M. Bonk whose telephone number is (571) 272-1901.

The examiner can normally be reached on M-F 9:00 AM - 5:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lowell Larson can be reached on (571) 272-4519. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Teresa M. Bonk
Examiner
Art Unit 3725



Lowell A. Larson
Primary Examiner